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**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

J.K. MAHESHWARI; J., ATUL S. CHANDURKAR; J.

SLP (C) NOS.19840-19841 OF 2021; April 9, 2026

THE STATE OF UTTARAKHAND *versus* SARITA SINGH AND ORS.

Service Law – Extraordinary Pension – Uttar Pradesh Civil Services (Extraordinary Pension) Rules, 1981 – Mandatory Sanction of the Governor – Writ of Mandamus – Substitution of Discretion – The Supreme Court set aside the High Court’s direction to pay extraordinary pension to the widow of a doctor shot dead while on duty - held that under Rule 4 of the 1981 Rules, no award of extraordinary pension can be made except with the sanction of the Governor, which involves the exercise of administrative discretion.

Administrative Discretion – Judicial Review – Held that ordinarily, the Court will not exercise the power of statutory authorities or substitute its own decision for that of the authority conferred with discretionary powers - noted that since the Governor had no occasion to examine the request or exercise discretion under the Rules, the High Court’s issuance of a writ of mandamus was unwarranted. [Relied on *Union of India Vs. S.B.Vohra and Ors. (2004 INSC 5); Paras 10-16*]

For Petitioner(s) : Mr. Gaurav Bhatia, Sr. Adv. Mr. Sudarshan Singh Rawat, AOR Ms. Anubha Dhulia, Adv. Mr. Neelmani Guha, Adv. Mr. Sunny Sachin Rawat, Adv. Mr. Shivam Wadhwa, Adv. Mr. Pranshu Dwivedi, Adv. Mr. Saakshi Singh Rawat, Adv.

For Respondent(s) : Mr. Vijay Hansaria, Sr. Adv. Ms. Kavya Jhawar, Adv. Ms. Nandini Rai, Adv. Mr. Aashay Shukla, Adv. Ms. Sneha Kalita, AOR Mr. Sarvesh Singh Baghel, AOR Mr. Shaurya Krishna, Adv. Ms. Shivranjani Ralawata, Adv. Mr. Vikramjeet Banerjee, A.S.G. (Not Present) Mr. Shashwat Parihar, Adv. Mr. Chinmayee Chandra, Adv. Mr. Krishna Kant Dubey, Adv. Mr. Piyush Beriwal, Adv. Mr. S K Gupta, Adv. Mokshita Sharma, Adv. Mr. Raj Bahadur Yadav, AOR Mr. Prateek Bhatia, AOR Mr. Dhawal Mohan, Adv. Mr. Manish Kumar, AOR Mr. Kumar Saurav, Adv.

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. Leave granted.
2. The State of Uttarakhand through its Chief Secretary is aggrieved by the judgment dated 12.09.2018 in Writ Petition No.284 of 2017 whereby the State Government has been directed to pay an amount of compensation of ₹1,99,09,000/- with interest at the rate of 7.5% per annum to the first respondent. A further direction has been issued for grant of extraordinary pension to the first respondent under the Uttar Pradesh Civil Services (Extraordinary Pension) Rules, 1981¹ as adopted by the State of Uttarakhand, within a period of ten weeks along with interest at the rate of 8.5 % per annum on the amount of arrears.
3. One Dr. Sunil Kumar Singh got himself registered with the Bihar Medical Council on 01.04.1991. He worked as a Junior Resident Doctor at A.N. Magadh Medical College Hospital, Gaya from 01.04.1991 till 18.08.1991. Subsequently, he was appointed as a Medical Officer on ad hoc basis with the State of Uttar Pradesh on 22.08.1992. After the Uttar Pradesh Reorganization Act, 2000 was enacted, Dr. Sunil Kumar Singh opted to serve at the State of Uttar Pradesh. However, since he was serving in the newly formed

¹ For short, the Rules of 1981

State of Uttarakhand, he was not relieved. On 20.04.2016, while he was discharging duties at CHC Jaspur as Pediatrician, he was shot dead. A First Information Report was accordingly lodged and Criminal Case No.773 of 2016 was filed against the alleged assailants. On the premise that the death had been caused during the discharge of duties, the first respondent, who is the widow of Dr. Sunil Kumar Singh, made a representation to the Chief Secretary, Ministry of Health with a copy addressed to the Hon'ble Chief Minister, State of Uttarakhand seeking grant of extraordinary pension under the Rules of 1981. On 26.05.2016, the Chief Secretary made a proposal for granting compensation of ₹50,00,000/- to the family of Dr. Sunil Kumar Singh along with grant of compassionate appointment to the elder son of the deceased and allotment of Government accommodation to the first respondent for a period of five years. It is the case of the first respondent that except for paying an amount of ₹1,00,000/- to the family as compensation and grant of compassionate appointment to her son as a Lecturer at the State Polytechnic College, Dehradun on contractual basis, nothing further was done.

4. The first respondent, thus, approached the High Court of Uttarakhand on 02.07.2017 by filing a writ petition under Article 226 of the Constitution of India. She sought for implementation of the proposal made by the Chief Secretary dated 26.05.2016 along with further compensation of ₹4,18,18,000/- and grant of extraordinary pension till the scheduled date of retirement of Dr. Sunil Kumar Singh with payment of family pension thereafter. Various other ancillary directions were also sought in the said writ petition.

The Deputy Secretary, Medical Health and Family Welfare Department filed an affidavit in reply on behalf of the State Government. It was stated that the first respondent was not entitled to grant of extraordinary pension as the work of a doctor did not fall under the definition of "work" in which life is put to risk. It was further stated that the State Government had paid the arrears of salary of the deceased being ₹10,65,000/- along with *ex gratia* amount of ₹1,00,000/-. Further, an official residence in 'Group-C' category was allotted to the family and the son of the first respondent had been given compassionate appointment as a Lecturer on contractual basis. It was, thus, stated that no further relief was admissible to the first respondent.

5. The Division Bench of the Uttarakhand High Court by its judgment dated 12.09.2018 found that though an amount of ₹50,00,000/- had been sanctioned by the Hon'ble Chief Minister for being paid to the family of the deceased, only an amount of ₹1,00,000/- had been released. It further held that the husband of the first respondent died while discharging official duties and hence, she was entitled to extraordinary pension under the Rules of 1981 as amended. The Division Bench, accordingly, proceeded to calculate the amount of compensation by taking into consideration the age of the deceased as 51 years along with his last drawn salary of ₹1,27,300/-. Considering further prospects including a possible promotion, it was held that the deceased would have drawn salary of ₹1,91,000/-. After making necessary deductions, an amount of ₹1,25,300/- was taken as the basis for determining the amount of compensation by applying the multiplier of eleven. Accordingly, it was held that the family was entitled to an amount of ₹1,89,09,000/- as compensation along with an amount of ₹10,00,000/- towards loss of consortium, love and affection. The aforesaid amounts were thus directed to be paid with interest at the rate of 7.5% per annum from the date of filing of the writ petition. Payment of extraordinary pension was also directed under the Rules of 1981 with the entire arrears being payable with interest at the rate of 8.5% per annum. A further direction was issued to enforce the provisions of the Uttarakhand Medicare Services Persons and Institutions (Prevention of Violence and Damage of Property) Act, 2013 in its letter and spirit. The State of Uttarakhand through the Chief Secretary filed a review application seeking review of the order dated 12.09.2018

principally on the ground that the post of a 'Doctor' was not a "post of risk" under the Rules of 1981 and hence, no extraordinary pension could be granted. The Division Bench of the High Court, however, did not entertain the review application holding that there was no error apparent on the face of record. The review application was accordingly dismissed on 16.10.2020. Being aggrieved by the judgment dated 12.09.2018 and the order in review dated 16.10.2020, the State of Uttarakhand has come up in appeal.

6. On 29.11.2021, while issuing notice in the present proceedings, the State of Uttarakhand was directed to pay an amount of ₹10,00,000/- to the first respondent as a condition for staying the operation of the impugned judgment. It was also directed that admissible amount of family pension be continued to be paid to the first respondent. Thereafter, by the order dated 05.03.2025, it was noted that the proposal to pay an amount of ₹50,00,000/- had been approved by the Chief Secretary but the said amount had not been paid to the first respondent. Considering the interest payable on the said amount for a duration of about nine years, an amount of ₹1,00,00,000/- was determined as the amount payable to the first respondent by way of an interim measure. Taking note of the fact that an amount of ₹11,00,000/- had been paid to the first respondent, it was directed that the remaining amount of ₹89,00,000/- be paid to her within a period of six weeks. It is informed that the aforesaid order has been complied with and the first respondent has accordingly received an amount of ₹1,00,00,000/-.

7. Mr. Gaurav Bhatia, learned Additional Advocate General for the State of Uttarakhand questioned the directions issued by the High Court in the impugned judgment, especially in the matter of grant of extraordinary pension to the first respondent. It was his submission that grant of extraordinary pension was subject to satisfying the requirements prescribed under the Rules of 1981 and such amount was payable only with the sanction of the Hon'ble Governor. Besides questioning the entitlement of the first respondent to extraordinary pension in the light of Rule 3 of the Rules of 1981, it was submitted that given the manner in which the death of Dr. Sunil Kumar Singh occurred, it could not be said that family was entitled to receive extraordinary pension. Inviting attention to the provisions of Rule 13 of the Rules of 1981, it was submitted that an application for grant of extraordinary pension was required to be made in the manner prescribed by Schedule IV of the Rules of 1981. No such application was made in the prescribed form. The first respondent merely addressed a communication to the Principal Secretary, Medical Health and Family Welfare Department seeking the grant of extraordinary pension. It was pointed out that the sanction of the Hon'ble Governor under Rule 4 of the Rules of 1981 was mandatory before extraordinary pension could be ordered and that the matter was entirely within the discretion of the Hon'ble Governor who could take a decision on being guided by the Rules of 1981. Without considering these aspects and without indicating as to how the death of the husband of the first respondent could be treated to have occurred during discharge of official duties, the grant of extraordinary pension had been made. He, therefore, submitted that the first respondent having been paid an amount of ₹1,00,00,000/- as compensation, nothing further was payable to the family of the deceased. No further direction thus ought to be issued and the grant of extraordinary pension was liable to be set aside.

8. Per contra, Mr. Vijay Hansaria, learned Senior Advocate for the first respondent supported the impugned judgment. According to him, the death of Dr. Sunil Kumar Singh occurred while he was performing his duties as a Medical Officer. His death qualified itself for grant of extraordinary pension in view of Rule 3 of the Rules of 1981. He emphasized the expressions "risk of office", "special risk" as well as "violence" as specified in Rule 3(6), (7) and (8) of the Rules of 1981. The High Court rightly found that the death had occurred

while the husband of the first respondent was on duty, which finding was supported by sufficient material on record. The objection now sought to be raised by the appellant that the first respondent did not make an application as required by Rule 13(1) of the Rules of 1981 was never raised before the High Court at any point of time. In fact, the application moved by the first respondent was accepted on 20.01.2017 and thereafter, the case for grant of compensation came to be recommended by the Additional Chief Secretary on 31.01.2017. After a lapse of considerable period, the claim of the first respondent did not deserve to be denied by relying upon such technicalities. It was further submitted that in absence of any basis for denying the grant of extraordinary pension, the claim of the first respondent was sought to be defeated in such a manner. The first respondent and her family having suffered the loss of their family member, there was no reason to deprive them of the award of extraordinary pension. He, therefore, submitted that there was no reason whatsoever to interfere with the impugned judgment of the High Court. In the alternate, it was suggested that this Court itself ought to re-consider the question as regards eligibility to receive extraordinary pension.

9. We have heard the learned counsel for the parties at length and with their assistance we have also perused the documentary material on record. In the writ petition preferred by the first respondent before the High Court of Uttarakhand, various prayers were made which included a prayer for grant of compensation of ₹50,00,000/-; a direction to clear the arrears of salary of the deceased being ₹10,65,000/-; grant of compassionate appointment to the elder son of the first respondent with a further prayer for grant of compensation of ₹4,18,18,000/- as well as grant of extraordinary pension under the Rules of 1981. When the writ petition was pending before the High Court, the appellant in paragraph 6 of its affidavit in reply stated that on 21.06.2016, *ex gratia* amount of ₹1,00,000/- was paid to the first respondent. On 17.11.2016, the son of the deceased was appointed as a Lecturer in a Government Polytechnic College on contractual basis. Thereafter, on 29.05.2017, the first respondent was allotted an official residence in 'Group-C' category. Further, on 22.09.2017, arrears of salary of ₹10,65,000/- was paid. As noted above, during pendency of the present proceedings, further compensation to the extent of ₹89,00,000/- has been paid. Thus, the total amount of compensation now paid to the family of the first respondent is ₹1,00,00,000/-. With regard to the aforesaid prayers and the reliefs granted to the first respondent, we are of the considered opinion that the said directions do not deserve to be interfered with or modified in any manner.

10. The only contentious issue that now survives for adjudication is the entitlement of the first respondent to extraordinary pension. On perusal of the Rules of 1981, it is evident that the said Rules are in the nature of a Code in itself. The circumstances in which the family members of an employee of the State Government becomes entitled to receive extraordinary pension and the manner in which the same is determined has been stipulated. Under Rule 4, award of extraordinary pension under the Rules of 1981 is only with the sanction of the Governor. Administrative discretion has to be exercised by the Governor in the contingencies indicated therein. Rule 4 of the Rules of 1981 reads as under:

"4. (i) No award shall be made under these rules except with the sanction of the Governor.

(ii) Notwithstanding anything contained in these rules, if a government servant sustains injury or is killed or dies of injuries received by his own default or as the result in a material degree of his own contributory negligence, or in other circumstances such that the Governor consider that an award should not be made or that the amount thereof should be reduced, any award to which a title is otherwise conferred by these rules may be withheld or reduced."

Rule 13 stipulates various matters of procedure including the manner in which a claim for injury pension or gratuity or family pension is required to be considered. Under Rule 14, the Governor has also been granted discretion to make an award in circumstances not covered by the Rules of 1981 or exceeding the amount that is admissible under the Rules. Rule 15 gives further discretion to the Governor to re-distribute the amount of pension or even permit in very exceptional cases, the continuation of the pension amount to the children of a deceased Government servant beyond the prescribed age. Rules 13 to 15 of the Rules of 1981 are reproduced here under: -

“13. (1) In respect of matters of procedure, all awards under these rules are subject to any procedure rules relating to ordinary pensions for the time being in force, to the extent that such procedure rules are applicable and are not inconsistent with these rules.

(2) When a claim for any injury pension or gratuity or family pension arises, the head of the office or of the Department in which the injured, or the deceased, Government servant was employed will forward the claim through the usual channel to the Government with the following documents:

(i) A full statement of circumstances in which the injury was received, the disease was contracted or the death occurred.

(ii) The application for injury pension or gratuity in Form A, or as the case may be, the application for family pension in Form B of the forms set forth in Schedule IV.

(iii) In the case of an injured Government servant or one who has contracted a disease a medical report in form C of the forms set forth in Schedule IV. In the case of a deceased Government servant a medical report as to the death or reliable evidence as to the actual occurrence of death if the Government servant lost his life in such circumstances that a medical report cannot be secured.

(iv) A report of the audit officer concerned as to whether an award is admissible under the rules and if so of what amount.

14. The Governor may make an award -

(1) in circumstances not covered by the terms of these rules, or

(2) exceeding in amount or differing in kind from the award admissible under these rules.

[(3) to any dependant or dependants of a deceased Government servant to whom rule 2 of rules was applicable.]²

15. [The Governor may, at his discretion-

(1) redistribute a pension among the children of a deceased Government servant if the widow or widows to whom it had been granted cease to draw it, and in the event of such redistribution the maxima and minima for motherless children in schedule III shall apply also;

(2) permit in vary exceptional cases the children of a deceased Government servant to continue to receive their pensions beyond the age of 18 in the case of a male child and beyond the age of 21 in the case of a female child; and

(3) subject to the first proviso under clause (1) of rule 11, increase the amount of pension sanctioned under rule 11, if either of the parents attains the age of 65 or becomes seriously incapacitated by ill health.]³”

11. The record indicates that the first respondent made a composite application on 20.01.2017 seeking grant of monetary compensation of ₹50,00,000/-, allotment of official accommodation at Dehradun for a period of five years and also award of extraordinary

² Introduced by Notification no.M-581/x-406-1937 dated April 6, 1943.

³ Introduced by Notification no.M-1022/x-406-1937 dated July 5, 1943.

pension. On consideration of the aforesaid application, a recommendation was made by the Director General, Medical Health and Family Welfare Department, Uttarakhand, Dehradun. The relevant documents were forwarded to the Additional Chief Secretary of the Medical Health and Family Welfare Department. While the prayers as made by the first respondent in her application on 20.01.2017 were pending consideration, she approached the High Court by filing the aforesaid writ petition. The Division Bench of the High Court proceeded on the premise that the husband of the first respondent died while discharging his official duties. It appears that the aspect that though the Hon'ble Chief Minister had agreed to pay compensation of ₹50,00,000/- but only an amount of ₹1,00,000/- was paid to her has heavily weighed with the High Court. In this background, the High Court proceeded to determine the amount of monetary compensation and also held the first respondent entitled to extraordinary pension. The factual adjudication as required under the Rules of 1981 preceding the grant of extraordinary pension has not been undertaken. It is true that after the first respondent made a request for grant of extraordinary pension on 20.01.2017, she could have been advised by the Competent Authority to make such request under the Rules of 1981. The same, however, was not done. Be that as it may, we are of the view that the present is a case where the request for grant of extraordinary pension is required to be made, considered and determined under the Rules of 1981. The aspect of sanction being required to be granted by the Hon'ble Governor coupled with the discretion vested in the Office of Governor under Rules 14 and 15 impels us to require such exercise to be undertaken under the Rules of 1981. We may indicate the reasons for such course.

12. On a complete reading of the Rules of 1981, it is clear that in the matter of award of extraordinary pension, the sanction of the Hon'ble Governor is necessary. Such sanction is expected to be granted by the Hon'ble Governor after examining all relevant aspects referred to in the Rules of 1981. Thus, grant of sanction to the award of extraordinary pension is pursuant to an exercise of administrative power conferred on the Hon'ble Governor. It is, therefore, obvious that at the first instance it is for the Hon'ble Governor to consider whether a case has been made out for granting sanction to the award of extraordinary pension. It may be stated that where an authority has been conferred with discretionary powers that have to be exercised while taking an administrative decision and the considerations to be taken into account while exercising such discretion are duly enumerated, it would always be preferable that such authority itself takes such decision. In such a scenario, the Court would be slow to itself take such decision especially when the authority on whom the power has been conferred to take such decision has had no occasion to examine the matter and exercise its discretion in accordance with law. It would be a different matter if such authority has either refused to take any decision for a reasonable period of time or the decision taken is found to be wholly arbitrary or suffering from non-application of mind. Even in such situations, normally, a direction to the authority concerned to take a decision afresh would follow. Ordinarily, the Court would not substitute its decision in place of the decision required to be taken by the concerned authority in exercise of its discretion.

13. In this regard, useful reference may be made to two decisions. In **State of West Bengal Vs. Nuruddin Malik**⁴, it was held as under:

“.....It is not in dispute, in this case, that after the management sent its letter dated 6th August, 1992 for the approval of 31 staff, viz both teaching and non-teaching staff, both the District Inspector of School and the Secretary of Board sought for certain information through their letters

⁴ Civil Appeal No.4895 of 1998 D.O.D. 18.09.1998

dated 21st Sept., 1992. Instead of sending any reply, the management filed the writ petition in the High Court, leading to passing of the impugned orders. Thus, till this date the appellant authorities have yet not exercised their discretion. Submission for the respondents was that this Court itself should examine and decide the question in issue based on the material on records to set at rest the long standing issue.

We have no hesitation to decline such a suggestion. The Court can either direct the statutory authorities, where it is not exercising its discretion, by mandamus to exercise its discretion or when exercised to see whether it has been validly exercised. It would be inappropriate for the Court to substitute itself for the statutory authorities to decide the matter.”

Similarly, in **Union of India Vs. S.B. Vohra and Ors.**⁵, the decision in *Nuruddin Malik (supra)* was referred to by the three Judge Bench and it was observed as under:

“..... It is, however, trite that ordinarily the Court will not exercise the power of the statutory authorities. It will at the first instance allow the statutory authorities to perform their own functions and would not usurp the said jurisdiction itself.”

14. In the present case, it is seen that the Hon’ble Governor had no occasion whatsoever to consider the request made on behalf of the first respondent for grant of extraordinary pension. Such request had not been turned down on merits. Only on the basis of the composite application dated 20.01.2017 that was yet to be considered, the prayer for issuance of a writ of mandamus for grant of extraordinary pension came to be made by the first respondent in the writ petition filed on 02.07.2017. It is pertinent to note that the High Court has not found that the Hon’ble Governor had refused to exercise discretion in the said matter. No finding is recorded that despite the case of the first respondent being put before the Hon’ble Governor, a decision was not being taken in the matter of grant of extraordinary pension. In these facts therefore, in our view, it would have been in the fitness of things for the High Court to have first requested the Hon’ble Governor to examine the matter and consider the request for grant of extraordinary pension as sought by the first respondent. However, the High Court by the impugned judgment itself proceeded to take a decision in the matter of grant of extraordinary pension without the Hon’ble Governor having an occasion to exercise discretion and take a decision in accordance with the Rules of 1981. For these reasons, we find that the exercise of jurisdiction by the High Court in issuing a writ of mandamus and directing the appellants to grant extraordinary pension to the first respondent is unwarranted and thus, deserves to be interfered with.

15. We are, therefore, inclined to permit the first respondent to make an application seeking grant of extraordinary pension under the Rules of 1981 for the same to be considered in accordance with law. Such direction is proposed to be issued bearing in mind the fact that the first respondent has received monetary compensation of ₹1,00,00,000/-, her son has been granted compassionate appointment, she has been allotted an official residence in ‘Group C’ and the arrears of salary of the deceased have also been paid to her. Moreover, the first respondent is also receiving family pension and the only aspect that now requires determination is the entitlement to extraordinary pension. The High Court not having adverted to these aspects and the award of extraordinary pension not being made in accordance with the Rules of 1981 especially in the absence of any sanction by the Hon’ble Governor, the impugned order to the extent it holds the first respondent entitled to extraordinary pension with a direction to pay such amount stands set aside.

⁵ 2004 INSC 5

16. Accordingly, the impugned judgment dated 12.09.2018 passed in Writ Petition No.284 of 2017 is partly modified as under: -

- (a) The direction to pay extraordinary pension to the first respondent is set aside.
- (b) The first respondent is permitted to make an application for grant of extraordinary pension under the Rules of 1981 within the period of four weeks from today. If such application is duly made, the Competent Authority shall consider the same in accordance with the Rules of 1981 and determine the entitlement of the first respondent to receive extraordinary pension. This be done after giving due opportunity to the first respondent. The decision in this regard be taken within a period of twelve weeks from the date of receipt of such application and the outcome thereof be communicated to the first respondent.
- (c) It is clarified that the claim for extraordinary pension shall be considered and decided on its own merits without being influenced by any observations made either in the judgment of the High Court impugned herein or any observations made in this judgment.
- (d) The amount of monetary compensation of ₹1,00,00,000/- paid to the first respondent pursuant to the interim orders passed in these proceedings shall be the amount of monetary compensation to which she is entitled. The same shall not be recovered from her.

17. The Civil Appeals are partly allowed in aforesaid terms leaving the parties to bear their own costs. Pending interlocutory applications are also disposed of.

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